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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,659	01/22/2004	Paul B. Moody	260-009	5149
44185	7590	01/23/2007	LOT9-2003-0110US1	
LOTUS AND RATIONAL SOFTWARE McGuinness & Manaras LLP 125 NAGOG PARK ACTON, MA 01720			EXAMINER ALI, OMAR R	
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			2109	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/23/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/762,659	<b>Applicant(s)</b> MOODY ET AL.	
	<b>Examiner</b> Omar Abdul-Ali	<b>Art Unit</b> 2112	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>08/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This action is in response to the original filing of January 22, 2004. Claims 1-32 are pending and have been considered below.

1. Examiner's Note. The Applicant appears to be attempting to invoke 35 U.S.C. 112 6<sup>th</sup> paragraph in Claims 11 and 18-20, by using "means-plus-function" language.

However, the Examiner notes that the only "means" for performing these cited functions in the specification appears to be computer program modules. While the claims pass the first test of the three-prong test used to determine invocation of paragraph 6, since no other specific structural limitations are disclosed in the specification, the claims do not meet the other tests of the three-prong test. Therefore, 35 U.S.C. 112 6<sup>th</sup> paragraph has not been invoked when considering these claims below.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "58", "71", and "17" have all been used to designate the dynamically linked library in the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet"

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pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "180" and "182" have both been used to designate a display. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "302" has been used to designate both a basic activity sharing check box and a history of document accesses sharing checkbox in the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version

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of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 561. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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Claim 32 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A carrier wave is a form of energy and does not fall within one of the four categories of patent eligible subject matter recited in 35 U.S.C. 101 (process, machine, manufacture, or composition of matter).

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 11, 21, and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Curbow et al. (US 7,076,043).

Claims 1, 11, 21, and 31: Curbow discloses a system and method of using presence information to delay dialing phone calls initiated by a caller to a callee comprising:

- a. obtaining an online status of a remote computer system user (page 4, paragraph 48);
- b. presenting an indication of said online status of said remote computer system user (page 4, paragraph 48);

- c. obtaining communication mode activity that includes the identity of at least one communication application used by said remote computer system user (page 4, paragraph 55);
- d. presenting communication mode activity information in a display for said local computer system (page 4, paragraph 55).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 2-7, 12-17, 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curbow et al. (7,076,043).

Claims 2, 12, and 22: Curbow discloses a system and method of using presence information to delay dialing phone calls initiated by a caller to a callee as in Claims 1, 11, and 21 above, but does not explicitly disclose the time at which the communication application was used by said remote user. However, Official Notice is taken that it is old and well known in the art that a time stamp can be applied whenever a communication application is used. Such time stamps are routinely used in the computer arts to generate usage logs. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply a time stamp to the

communication application being used. One would have been motivated to apply a time stamp to the communication application to determine when the most recent usage of the communication application occurred.

Claims 3, 12, and 23: Curbow discloses a system and method of using presence information to delay dialing phone calls initiated by a caller to a callee as in Claims 2, 12, and 22 above, further comprising:

- a. said communication mode activity information further comprises at least one resource (device) used when said at least one communication application was used by remote user (page 4, paragraph 55).

Claims 4, 14, and 24: Curbow discloses a system and method of using presence information to delay dialing phone calls initiated by a caller to a callee as in Claims 3, 13, and 23 above, but does not explicitly disclose that the resource comprises a file used by said at least one communication application. However, Official Notice is taken that it is old and well known in the art to monitor the files accessed by a remote user while using a communication application. Such monitoring is used in the computer arts to determine access fees to be charged to the user. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to track the file used by said communication application. One would have been motivated to monitor the files accessed by the user in order to keep track of a user's activity.



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Claims 5, 15, and 25: Curbow discloses a system and method of using presence information to delay dialing phone calls initiated by a caller to a callee as in Claims 3, 13, and 23 above, further comprising indicating to remote users that two users are currently engaged in conversation (page 4, paragraph 51). This system does not explicitly disclose that the communication mode activity information further comprises time duration, however Official Notice is taken that it is old and well known in the art to display the time duration of conversations in real time. Time duration displays are used by the computer arts to inform the user of the remaining time when accessing a pre-paid resource. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to disclose the time duration of a conversation between two parties to a remote user. One would have been motivated to display the time duration of the call to allow a local user to estimate how long the remote user will be busy.

Claims 6, 16, and 26: Curbow discloses a system and method of using presence information to delay dialing phone calls initiated by a caller to a callee as in Claims 5, 15, and 25 above, further comprising:

- a. said communication mode activity information further comprises identity of another user with whom said remote computer system user is communicating (page 4, paragraph 51).

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Claims 7, 17, and 27: Curbow discloses a system and method of using presence information to delay dialing phone calls initiated by a caller to a callee as in Claims 5, 15, and 25 above, further comprising showing the current status of a call in progress to the user who initiated the call (page 4, paragraph 56). This system does not explicitly disclose the communication mode activity information indicates whether said remote computer user initiated the communication session. However, Official Notice is taken that it is old and well known in the art to determine which user initiated the call. For example, telephone companies routinely determine the initiation of a long distance call in order to charge the appropriate fees. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to disclose the identity of the user that initiated the call. One would have been motivated to disclose the identity of the user that initiated the call to ensure more accurate record keeping.

### ***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 8-10, 18-20, and 28-30 rejected under 35 U.S.C. 103(a) as being unpatentable over Curbow et al. (US 7,076,043) in view of Godefroid et al. (US 6,697,840).

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Claims 8, 18, and 28: Curbow discloses a system and method of using presence information to delay dialing phone calls initiated by a caller to a callee as in Claims 1, 11, and 21 above, but does not explicitly disclose presenting an interface to the local user that indicates whether communication mode activity information regarding said user of local system is to be shared with others. Godefroid discloses a similar system for presence awareness in collaborative systems, that further discloses that queries regarding the private data of a user, for example, recent collaborative activities can be allowed or disallowed (column 6, lines 12-18). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to specify whether the communication mode activity information in Curbow is allowed to be accessed by remote users. One would have been motivated to specify which communication mode activity information is available for privacy purposes.

Claims 9, 19, and 29: Curbow and Godefroid disclose a system and method of using presence information to delay dialing phone calls initiated by a caller to a callee as in Claims 1, 11, and 21 above, and Godefroid further discloses presenting an interface to a local user that enables the user to specify which communication mode activity information regarding said user is to be shared with other users (column 6, lines 12-18). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to specify which communication mode activity information is to be shared with others. One would have been motivated to specify which communication mode activity information is available for privacy purposes.

Claims 10, 20, and 30: Curbow and Godefroid disclose a system and method of using presence information to delay dialing phone calls initiated by a caller to a callee as in Claims 1, 11, and 21 above, and Godefroid further discloses queries regarding the private data of a user can be explicitly allowed or disallowed (column 6, lines 12-18). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to present an interface to a user that enables the user to specify one or more users with which the communication mode activity information is to be shared. One would have been motivated to specify which communication mode activity information is available to certain colleagues for privacy purposes.

### ***Conclusion***

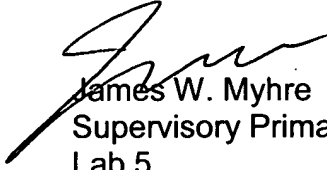
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Abdul-Ali whose telephone number is 571-270-1694. The examiner can normally be reached on Mon-Fri(Alternate Fridays Off) 7:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Myhre can be reached on 571-270-1065. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OAA  
01/10/2007



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